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Interesting Trial

Hopkins vs. Gowan

Wm Bell

INTERESTING

TRIAL.

Hopkins v. Gowan.

WEXFORD SPRING ASSIZES.

MARCH 14, 15, 1827.

BEFORE THE HON. JUDGE BURTON,

AND THE FOLLOWING

SPECIAL JURY.

BENJAMIN WILSON,
EDWARD TURNER,
HIGATT TENCH,
JOHN SHEPPARD,
CHARLES JACOB,
WILLIAM TOOLE,

CHARLES HEWSON,
ROBERT HUGHES,
WILLIAM RICHARDS,
BENJAMIN WHITNEY,
EDWARD WATSON,
JOHN NICKSON NUNNE.

Counsel for Plaintiff :

Messrs. SCOTT, DIXON, HATCHELL AND HAMILTON.

AGENT—H. P. WOODROOFE.

For Defendant :

Messrs. DOHERTY, M'KANE MOORE, AND BREWSTER.

AGENTS—HOPE & DOWSE.

☞ This extraordinary trial lasted two entire days ; the Jury retired at 10 o'clock, and consulted for a few minutes, when they returned a verdict for the Plaintiff, thereby establishing the will of the late JOHN HUNTER GOWAN, and invalidating the Deed endeavoured to be set up by his illegitimate Children—William and Ogle Gowan.

Dublin :

PRINTED BY GEORGE P. BULL, 53, MARY-STREET.

1827.

RE-PRINTED IN UPPER CANADA.

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TRIAL.

HOPKINS v. GOWAN.

THE pleadings were opened by Counsellor HATCHELL.

Mr. SCOTT stated the case. It was an action in which the Lessee of Robert Hopkins was Plaintiff in an ejectment on the title against William Gowan, the Defendant, to carry the trusts of the will of the late Mr. John Hunter Gowan into execution. It was a case arising out of an Equity suit, and the Lord Chancellor had directed that Robert Hopkins should be the Plaintiff, and William Gowan the Defendant. In consequence they were enabled in a great measure to anticipate the arguments which might be used on both sides. Mr. William Gowan set up a deed conveying to himself the lands mentioned in the declaration called Ashwood. There are several lands mentioned, but I shall content myself with stating them under the name of Ashwood, as they are called the estate of Ashwood. Gentlemen, you are to say whether a certain deed of the 15th of March, 1824, was duly executed by the said testator or not.—That is the sole question. I admit that much property depends on the issue of this action—I admit that much property is at stake, and I also admit that it affects deeply the character of some of the parties concerned in this case. Whatever the difficulties of the case may be, I here state, that—THAT DEED IS A GROSS AND INFAMOUS FABRICATION AND FORGERY, AND THAT THOSE WHO COME FORWARD TO SWEAR TO ITS EXECUTION COMMIT PERJURY WHEN THEY SO SWEAR! I fear I shall have to detain you a long time. The case is a complicated one. I must say that one of the witnesses to be produced on behalf of the Plaintiff comes before you with suspicion. He is one of the witnesses to that deed, but he repented of his conduct, and he insisted that they should compromise the matter, for he said, that notwithstanding what he had done, he could not swear to a falsehood. It is for you to take into consideration the degree of credit to be given to one, who, subject to the frailties of our common nature, had so erred, but nevertheless had evinced returning virtue. The testator, John Hunter Gowan, was a gentleman well known to you all. He was active and intelligent and advanced in years. He died in the year 1824, at which time he was 87 years of age. He lost his

wife early, by whom he had a numerous family. Thomas Gowan, his eldest son was heir at law. Unfortunately after his wife's death he formed an illicit connection with a woman by whom he had three children, William Gowan, the Defendant, Robert Ogle Gowan, whom I shall in future call Ogle, and Margaret Gowan. Mr. Gowan was, as I said, active and intelligent. He was fond of field sports and mixed much in society. He was captain of a Yeomanry corp in this County, and on several occasions was complimented by the Gentlemen of the County for his loyalty and public services. From the Grand Jury also he received three silver cups with inscriptions, which he highly valued, besides which he received £100 a year as a pension from Government. He was possessed of a small independent property, Mount Nebo, where he lived, and other lands. The legitimate and illegitimate children lived in the same house and dined at the same table, but whenever strangers were present, THE ILLEGITIMATE CHILDREN WERE EXCLUDED. This produced jealousy in the family. The illegitimate children, knowing that they were more immediately dependant on their father, were anxious to gain his affections, particularly William Gowan, who entered into the management of his affairs. It is true that they sought their father to make provision for them during his life time out of his lands; but it is also true that he uniformly and pertinaciously refused to make such provision, and that he persisted in this declaration to the last. He told them that he certainly would make provision for them, but not out of his lands, as he would reserve them for his legitimate children. Gentlemen, these jealousies and irritations increased till December, 1823. At that time Robert Ogle Gowan, procured a Mr. Fearn, a respectable Attorney in Dublin, to make over the lands of Ashwood to himself. This deed Mr. Fearn left with Mr. G. P. Bull for Mr. Gowan. Mr. Bull was Proprietor of a Paper in Dublin at that period called "THE ANTIDOTE." Mr. Bull read the deed and he gave it to Mr. Ogle Gowan. Shortly after Mr. Thomas Gowan went to Dublin, and having called at Mr. Bull's he, (Bull,) told him of the deed and what was contained in it. Mr. Thomas Gowan asked Mr. Bull would he feel any disinclination to swear to the truth of what he had stated.—Mr. Bull said not, and he accordingly made the Affidavit before Alderman Darley. Mr. Thomas Gowan came home to his father, and he charged him, if I may so say, with having executed that deed. He denied that he ever executed or knew of any such instrument.—Mr. T. Gowan then handed him Mr. Bull's affidavit. Old Mr. Gowan felt greatly surprised and in-

censed at this; he denied that he ever seen or heard of any such deed. Gentlemen, he spoke upon the subject to William and Ogle Gowan. He desired them to destroy it, that he might hear no more of it. They affected to destroy the deed by throwing it into the fire, but it was only the cover of the deed that they burned—the deed itself they dropt into some trunk or box, and they afterwards boasted that they had deceived the old gentleman!!! Shortly before this one of the silver cups, which I stated the Grand Jury had given to Mr. Gowan disappeared. The family had reason to suspect Ogle Gowan of having taken it, and Thomas Gowan determined to prosecute him for it. Mr. John Hunter Gowan finally exerted himself to prevent the prosecution. He came to the Assizes, represented the case to the Grand Jury, and I need not say that he succeeded in having the Bills withdrawn. The prosecution was therefore rendered abortive. This was at the Spring Assizes. It will appear that he proceeded from the Assizes to the residence of his nephew, Henry Gowan of Enniscorthy, where he remained some days. He expressed great indignation at the prosecution instituted by Thomas Gowan against Ogle Gowan. He afterwards proceeded with Mr. Henry Gowan to Mount Nebo. The deed of the defendants, or rather conspirators, bears date on the 15th of March, that very month, and purports to have been executed at Mount Nebo. Mr. Henry Gowan continued at Mount Nebo for several days, and he will tell you distinctly that no such deed was executed during that time—that if it had been executed he should be likely to be the witness to its execution—that he did not hear of it, or even see the parties in it during that period. Gentlemen I have now to introduce to your notice the names of persons of the utmost respectability in this County. Lord Courtown, Mr. Beauman, of Hyde Park, and Mr. Medlicott, the Rector of the Parish, who exerted themselves to endeavour to reconcile the differences that existed between Mr. Gowan and his children, and after several efforts they succeeded. Mr. Gowan sent for Mr. Medlicott to administer to him the sacrament, but Mr. Medlicott felt that he would not be justified in administering to him that sacred rite while any irritated feeling existed between them, and he requested that they should be reconciled. Gentlemen you will find that the children were all called around the father—that he held out his hand cordially to them—and that they took the sacrament together. On the 2d of May, William Gowan went to Mr. Donovan, a respectable attorney of Enniscorthy, to consult with him about drawing up his father's will. Mr. Donovan acted

conscientiously and cautiously, and he asked what title deeds there were, and what power his father had in the disposal of his property. William Gowan informed Mr. Donovan that he believed his brother Ogle Gowan had a deed, which he alleged to have destroyed, and he wished to know whether it could set aside the will. What answer Mr. Donovan made to this I cannot tell. William brought Mr. Donovan to Mount Nebo, to the bedside of the testator, and he drew up the will, none being present but Wm. Gowan and Plaintiff; and William Gowan directed that he himself should be made one of the executors in it, and that there should be a clause introduced for the protection of the executors. On the 10th of May, William Gowan again went to Mr. Donovan and got him to draw a codicil to the will, leaving an annuity of £100, to him out of the lands of Ashwood, those very lands which his brother alleged were made over to him by a prior deed. Mr. Gowan shortly after sent for Mr. Medlicott, and told him that he wished to obtain his assistance in altering his will. Mr. Medlicott remonstrated with him, and told him that he ought to give up all earthly affairs, and that it was not any business for him to undertake. Mr. Gowan however entreated that he would draw up a codicil for him cutting down the annuity of £100 to £50. Mr. Medlicott then said, it would be necessary that all persons should leave the room; but it will appear that one person remained behind, concealed under a blanket on the floor!!! The servant maid gave a hint of it to Mr. Medlicott, who communicated the circumstance to the testator. Mr. Gowan immediately ordered that the person should be turned out. Gentlemen, Mr. Medlicott was perhaps too scrupulous on the occasion, for he turned away from the person, so that whether it was William or Ogle Gowan that was concealed under the blanket we cannot tell, but the person accordingly left the room. Mr. Medlicott then sat down to draw up the codicil, but while he was so engaged, William Gowan burst violently into the room and abused Mr. Medlicott; said it was no business of his, and that he ought not to interfere between a father and his children. He said he would leave the room if Mr. Medlicott would promise to do nothing against his interest. Mr. Medlicott acted as became him. He said he would make no promises, and he threatened if William Gowan would not leave the room he would leave it himself. The old man put out his hand from the bed and entreated that Mr. Medlicott would not leave the room, and he then peremptorily ordered William Gowan to quit it. William Gowan was obliged in consequence to go out of the room. Mr. Medlicott then

proceeded to complete the codicil, cutting down the annuity of £100 to £50 a year. When William Gowan heard this he was greatly displeased, and he and his brother determined at once, if possible, to counteract it. He induced the man to whom I have alluded, a man of the name of Burland, to enter into his views. Burland was a respectable man up to this period, a Permanent Serjeant in the corps of Yeomanry of which Mr. Gowan was Captain, and intimate with the family. And why did they get his co-operation on the occasion? because they knew that his character and intimacy with the family would give weight to the transaction. The two brothers went to Burland, they told him that he must endeavour to make their father draw up a will in their favour, or they must forge one for him! Wm Gowan undertook to make the draft. They had by some means obtained a copy of the original will. As Burland was a good penman he was induced to engross it. Gentlemen, we will produce that fabricated will, with the alterations, and in the handwriting of Ogle Gowan!!! They directed him to come to Mount Nebo on the 24th of May. Mind, their father died on the 25th, and he was directed to go on the 24th. In the mean time Burland had some compunctious visitings. He did not wish to go farther, and he left his house. He went to Roundwood, in the County of Wicklow, where he staid four days, and he went from that to Dublin. William and Ogle Gowan went to his house and expressed their surprise that he was not at home, as he had promised, to execute the will. O. Gowan hastened to Dublin. You will find that on the 28th he left his house—on the 29th he was in Dublin, and on the 30th he met Mr. Burland. Mr. Bull, who was in the Sheriff's prison. Saw Ogle take Burland aside and finally take him away with him. He took him to a public house, the two other witnesses Lawless and Moore, were not in company with them, and he induced Burland to sign the deed as the others had done on the 24th of May. The four witnesses had therefore deliberately signed this forged document, and gentlemen you will find that Burland's signature was in different ink from the others, though it is asserted that the document had been executed at one time and one place. An attempt is made to account for this by saying that there were two ink bottles, but that, I think, speaks for itself. Some of the friends of the family suspected Burland, and when they questioned him on the subject, he discovered all. Gentlemen, these witnesses belonged to what is called an Orange Society, between the members of which there is a kind of link connection—a bond of brotherhood—they are bound by no common ties, and pledged to assist each oth-

er on all occasions. I do not wish to cast any imputation on the society in general, or on persons who may belong to it; but I cannot help saying that the defendant, made use of the influence of his situation in it to induce those persons to lend themselves to his purposes. Any of these persons is sufficient evidence against the others—[Here Mr. Scott read a passage or two from the IV. Vol. of STARKIE, where it is laid down, that where there is a co-operation between any number of persons which shews a community of design, any one of them is sufficient evidence against the others.] R. O. Gowan offered to give up to William Gowan the deed which Fearn had drawn up, giving to him £200 out of the lands of Ashwood, if William would give him the codicil in which he was left £100 a year. Gentlemen, that will go before you to shew the value which was set upon the deed in question. Mr. Scott then proceeded to argue upon the subject of the Bill and Answer which had been filed in the Court of Equity. He then read some letters from William Gowan to Burland, in one of which, dated the 12th of July, he says, “Keep up your spirits and fear not, we will be victorious. Great preparations for the bonfire to-night”—(a laugh.) Here one of the Jury was sent for from the other Court, and Mr. Scott ceased till his return, when he addressed some more observations to the Jury, and concluded by expressing his confidence that the verdict of the Jury would be in favour of the Plaintiff.

(The following are the letters which were read by Mr. Scott in the course of his statement.)

NO. I.—Dated Carnew, June 12, 1824.

(Copy Letter from defendant to Mr. John Burland.)

“MY DEAR FRIEND,—As I am well aware that you *value my interest*, which must tend in the end to be also *your interest*, that you will not fail, let what will occur, to come on Monday next to Carnew to me, as I have business of *IMPORTANCE to communicate* to you. I have therefore to request of you that you will let nothing prevent your coming to me.—I am, my dear Friend, with the highest respect and esteem, your ever sincere friend till death, and you faithful brother;

WILLIAM GOWAN.”

“The love that exists between us, *Brothers*, shall never be broken down or separated!”

“To Mr. John Burland, Loggan.”

NO. 2.—Dated Carnew, Nov. 8, 1824.

“MY DEAR SIR.—As I have got every thing settled, I would wish to see you early in the morning, or this evening. I have now nothing to fear; they are all at Mount Nebo in despair. I have been successful about getting the *money!* Compliments to Mrs. Burland and the family, and believe me, my Dear Sir, to remain till death, your sincere friend,

WILLIAM GOWAN.”

N. B.—“I will be going home to-morrow, and will not be back for some days, but I wish to see you in person before I go.”

“*Mr. John Burland Loggan.*”

NO. 4.—Dated Carnew, July 12, 1825.

“MY DEAR SIR.—I am not surprised at your being a little uneasy at not seeing me, but I am not so bad as you imagine, or as you say in your note of this day, for if I had heard or seen more I would be with you immediately, as I promised. I am just after receiving a letter from OGLE, written by the desire of LAWLESS, denying any knowledge of it, and saying he will ever stand just to my cause; he will be down with Counsellor M’KANE in a few days in the country. I enclose you his letter. LAWLESS’s wife is down at MOORE’s, at Sandysford, at present. I sent word by her for MOORE to come to me. I am waiting to see him before I see you, and therefore I don’t like to leave the house a moment expecting to see him, as I am sure if he came here and I out, he would be off to Gorey, or down that side; considering this, I am sure you don’t blame me. OGLE was so astonished that he mentions in his letter, that he was afraid you, MOORE or LAWLESS was bribed! If possible come to the Market on Thursday, or write to me, and when you appoint a day, on Thursday, I will go to you. LAWLESS’s wife told me here, that so far from him knowing any thing about the report, that he has often told her, and they by themselves, that he would not leave me for £500, and she said she was sure MOORE knew nothing about it. I also heard that it was a making of the opposite side to put out such a report in the country. *Keep up your spirits and fear not! we will be VICTORIOUS!! Great preparations for the Bon-fine to-night!!!*

“Until death, ever sincerely and affectionately your’s,

WILLIAM GOWAN.”

“*Mr. John Burland, Loggan.*”

NO. X. Dated 3, Bergan-place, July 10, 1825.

“*My Dear William.*—I was somewhat astonished when I returned from town this moment, where I have been all the morning, to find that you had written a letter to William Lawless, which came here this morning, during my absence, and was sent to him immediately on receipt, by his sister.—Fanny (Mrs. Gowan) tells me he came back here immediately after, but did not shew her any of the letter, but to tell her to tell me to write to you in his name, to say that he disavowed all knowledge of the *thing!* that he was still faithful to your cause, and that he would soon see you in the country. I confess the news had surprised me a little, as I infer from it that some of them have bribed either Burland, Moore or Lawless! I am still more amazed that you should write to him upon the subject, but not say a word to me about it. I now beg you will let me know all particulars by return of post, as you must be aware, I must necessarily be anxious upon the subject! You did not send the book. Your’s, very truly,

OGLE R. GOWAN.”

“*To Mr. Wm. Gowan, at Mr. Graham’s, Carnew,*”

(bearing the Dublin post-mark.)

NO. III.—Dated “Antidote Office,” Jan. 31, 1825.

“MY DEAR SIR,—When I was leaving the country I promised to write to you on the Monday following, that was on Wednesday I seen you at Loggan; on Thursday following, I went to Dublin by the Wexford Coach and got into Dublin at eleven o’clock at night; a Friday I

staid there, and on Saturday Counsellor M'Kane sent me off again to the country for papers; I went by the Carlow coach and was in Carlow on Saturday night, where I stopped till Tuesday. I returned again to Dublin on Tuesday night, so that 3 Dublin journeys in 4 days. Ogle has come home from the North. *My business is getting on famously, in so much, that I don't fear success.* I hope this letter will get you, Mrs. Burland and the children in good health.—I will be delayed a week longer in consequence of the death of Counsellor M'Kane's wife.—I am my dear Sir, ever sincerely yours, till death.—

“WILLIAM GOWAN.

“*Mr. John Burland, to the care of
Mr. Bat Burland, Loggan.*”

NO. VI.—Carnew, August 14.

“MY DEAR SIR,—I got two letters since from Dublin. Mr. Dowse says if the suit should continue for one thousand and one years, I am entitled to the rents all the time! I was speaking to Counsellor M'Kane to day, *all's well.* I got the notices served on all the tenants, they all seemed reconciled to them. I hope Mrs. B is well and the little ones recovering. I write this to let you know how prosperous things are going on, sincerely till death.

WILLIAM GOWAN.

“*Mr. John Burland, Loggan.*”

NO. VII.—Dated Carnew, 18th August, 1825.

(*Addressed to Mr. John Burland, Loggan, by agreement.*)

“MY DEAR SIR—I have considered, and re-considered the advise you gave me the last time I had the pleasure of seeing you, and upon the most mature consideration, I beg leave to inform you, that I cannot nor will not consent to the same, and for the following reasons:—First, I never could consent to give up a property so fairly given me by my father, and think of leaving myself depending on *friends*,—friends, as you strove and endeavoured to make me believe they were, but which I know by experience they are the contrary. Secondly, if I did consent to agree with your advise, of making a settlement with them, they would try to take *all* from me, and I am sure they would be *glad* to see me *begging*; and, thirdly, because I know it so *fairly and justly my right*, a right I will contend for to the latest moment of my life, and which you, Sir, well know my Father gave me in your presence; and as to your parting compulsory advice, pardon me for the expression, *I care not for it!* If you, sir, or any other of the witnesses, would attempt to shrink from that cause in which they have so fairly embarked, you know I can *resort* to measures to compel them, and which *I will* do, but which I hope I never shall have occasion to do, for I am sure too much HONOUR dwells in your BREAST to so soon forget the promises made to *one now no more!* and I am sure you too much respect the ashes in the grave to relinquish a trust he so *faithfully* placed in you. I am sure if any person told my Father when living, that you would betray him when dead, he would tell them they were lyars, for to every intent and purpose it would be betraying him to endeavour to get away from establishing his *act and deed*, made of his free will and consent, and not through any suggestion or influence of mine. I hope I need not say more to you on this head. I must conclude by assuring you that I never will rest, day or night, until I establish my right in and to the lands of Ashwood; and if any thing should happen *me*, it would avail my enemies nothing, as I have made arrangements how it would go after my death; consequent-

ly my Representatives have as good a right to it as myself. I am, my dear Sir, your faithful friend, but much nettled.

WILLIAM GOWAN."

"Mr. John Burland, Loggan."

NO. VIII.—Dated Carnew, August 26.

"My Dear Sir—This morning I set out for Dublin, to swear my answer to the amended Bill. I had a long conversation with HUNTER the other day. He said they would make it up on no terms, but only allowing me the £50 a year, and me paying off the costs, as he said if there was a settlement it could not be expected for them to pay their costs for coming on terms with them. I hope my letter to you on the Fair-day (18th) had the desired effect of pacifying your friends! HOLD FAST! but above all, hold no communication on the business with friend or foe!!! I hope Mrs. Burland is well, and the children on the recovery. I intend to distrain immediately after coming from Dublin! Ever sincerely your friend,

WM. GOWAN."

"Mr. John Burland, Loggan."

NO. IX.—Dated Carnew, September 7, 1825.

[From Same to Same.]

"My Dear Sir.—On Friday last, the 2d inst. I swore my answer to the amended Bill, and returned to Carnew about 10 o'clock on Saturday night. Mr. R. B. DOWSE, of South-Cumberland-street, came down on Saturday last also, by the Carlow Coach, to see the necessary arrangements made for me for distraining the Tenants of Ashwood. I know not the moment he, Mr. DOWSE, and Mr. HOPE will be with me for to arrange every thing, and appoint a day for going to Ashwood, so that every thing is going on well respecting it. I saw Ogle, Wm. Lawless and Wm. Moore since; all of them seem determined to hold out to the last moment!!! I hope the letter I wrote you on the Fair-day answered the purpose it was intended for! I hope Mrs. Burland is well and the children on the recovery. Remember me to her. Mr. Bull has abandoned the idea of going to the North, or of setting on the "Armagh Moderator," for he has settled at, I believe, No. 46, Mary-street, and is at present living there. I was in the new house with him for a long time, he hopes to do well in it; he has been appointed Agent for an English Company, for the sale of English works. I have nothing more new at present, but remain, my dear sir, until death, your sincere friend,

WM. GOWAN."

"Mr. John Burland, Loggan."

NO. X.—Dated from Bergan-place, 5 o'clock.

"My Dear Friend.—I will have business in town in about two hours and will expect to meet you at the ARCADE at 7 o'clock this evening, without fail. I hope you will not disappoint me, as I will be to the moment. Very sincerely your's,

OGLE R. GOWAN."

"Mr. John Burland, at Mr. G. Bull's,
53 Mary-street."

FO. XII.—Dated Bergan-place, Nov. 14, 182

"Dear Sir—I hope you will let me see you this day, at the ARCADE, at the hour of 4 o'clock precisely, as I wish to communicate to you something I have just heard. May I beg your attention as I will be punctual to the hour. Very sincerely your's,

OGLE R. GOWAN."

"Mr. John Burland, at Mr. G. Bull's,
54, Mary-street."

NO. XIII.—Bergan-place, Saturday evening.

"Dear Sir—I have just had your very extraordinary letter, and to me quite incomprehensible. May I therefore beg you will call to me here on to-morrow (Sunday) morning, at or between the hours of 11 and 12 o'clock, when I will state fully my mind to you. May I entreat that you will allow no circumstance to prevent your coming, as it may be of importance. Truly your's,
OGLE R. GOWAN."

"Perhaps you could come to breakfast at 10 o'clock.—O. R. G."

"Mr. John Burland, at Mr. G. Bull's.
53, Mary-street."

NO. XIV.—No Date. Ogle Gowan to Burland.

"Dear Friend—William is to get some money to-morrow morning, therefore I most earnestly request you will not go till Monday morning. You shall see or hear from me to-morrow. I have most particular business with you of the first importance! Your's ever faithfully.
OGLE R. GOWAN."

"Mr. John Burland, Loggan."

RICHARD BOLTON, Esq. Examined.—Proved attested copies of answers, and part of Depositions in the equity cause. Met Testator at Spring Assizes, and had conversation with him, he seemed very angry, and said that he, Testator, would make it a bad business for them that brought him there.

WM. GOODISON, Esq. proves attested copies of remainder.

WILLIAM DONOVAN, Esq. Knew Mr. J. H. Gowan; saw him in May, 1824; went to Mount Nebo with William Gowan, to draw Mr. Gowan's will; William Gowan came to witness's office in Enniscorthy for him; witness lived at Bessmount William Gowan came again with the title deeds, and consulted with witness whether Mr. Gowan had the power to bequeath his property; William asked him about a deed, which it was said Mr. Fearn made of the lands of Ashwood; William said Testator was hostile to Thomas Gowan, and Ogle Gowan had a deed drawn by Mr. Fearn, but William Gowan did not know whether it was perfected, conveying his property to Ogle: Wm. insisted Mr. Donovan should go with him—his father was in bed, was introduced to him in his bedroom by William Gowan; his father was in his sound mind; took his instructions to draw his will; William and Plaintiff were the only persons present; these two was consulted by Testator as to each legacy: the account of them was in William Gowan's handwriting; made the same for each, the fund to be paid out of Ashwood, containing 400 acres, deducting £100 a year to William, the whole, calculated at 18 years purchase, amounted to about £5000 to pay the legacies. William directed himself to be made executor, and that the executors should

be protected, and to be left £150 for his trouble; his father desired Mr. Donovan to be secret to his will; on the 10th of May, witness attached the codicil to the will, sealed them up together, and took them to the Rev. Mr. Moore, by Testator's direction, but finding Mr. Moore from home, took the will to his (witness's) house, and on the 19th of May, gave the will, &c. to the two Executors, in consequence of receiving a letter from the Testator directing him to do so. At this time William Gowan never gave witness to understand that the Testator had made any deed in his favour, but since the production of the deed in question, witness has suspected that Defendant was alluding to this deed when he sounded witness about the effect of the deed to R. O. Gowan.—Witness left the draft of the will made by him (before the alteration of the legacies) with the Defendant. The first engrossment which he made was on the 3d. This he left with Defendant, having previously made a fresh draft in consequence of the alteration made by the Testator in the first, which last draft or engrossment is the will as executed. The draft he left with Defendant he never returned.

Cross examined by Mr. M'Kane—Witness saw the Testator at the Spring Assizes, 1824, when his son Thomas was prosecuting O. Gowan. Testator was anxious the prosecution sho'd be dropped, and was displeased that his son Thomas did not comply with his wishes. When Testator executed his will he said "There was an end of all deeds, there's no deed—no such thing!!!"

The Rev. J. T. MEDLICOTT examined by Mr. Scott.—Knew Testator who sent for him previous to the Assizes to breakfast. A cup and dagger were stolen, and Thomas Gowan had sworn Bill of Indictment against Ogle Gowan; their father requested witness to speak to Thomas to relinquish the prosecution.—Thomas refused to do so, as he said he would shew to his father Ogle's rascality; had a second interview in Gorey, and brought Thomas and his father together before the Assizes—Thomas then declared that he was not acting on his own account, but on the account of his sisters and brothers, they shook hands; had a third interview in company with the Rev. Mr. Webb, at which time the father was in bed, joined Mr. Webb in exhorting him to be reconciled to his son, which they did not think he was, as the passage from his residence to Holyfort had been stopped; he told them that this was no act of his, but he supposed it had been done by his sons; constantly found his legitimate children in the room with him, with the excep-

tion of Mrs. Colclough Gowan; effected a reconciliation between him and his children previous to the 23d of May; they were called round the bed-side, and he shook hands with them all; saw him on the 23d, by a message from him; he was of sound mind, but was much distressed because that in his will £100 a year had been set down to William; this he wished reduced to £50 adding that he had been a good and dutiful son to him, and that he would leave him that; he asked witness to draw a codicil to his will to that effect, as his attorney, Mr. Donovan, lived at a great distance; witness told him it was no part of his business, and that he was not competent to it; afterwards consented. Testator then ordered the room to be cleared; as the last person (a maid servant) was leaving it, she pointed significantly towards a corner, on which witness went over, and discovered the figure of a human being rolled up in a blanket! told Testator, who evinced much displeasure, and desired that he should be instantly turned out; does not know who the person was, as (unwilling to put him to confusion) he left the room until it was cleared; witness then called for pen; ink and paper, and sat down by the bed of the old man, when the door was violently thrown open by W. Gowan, who said he understood that witness had gone there for the purpose of interfering between him and his father; witness told him he had not, and requested him to leave the room; he said he would not until witness pledged himself not to do any thing detrimental to his interest; witness told him that he would do nothing further than commit Mr. John Hunter Gowan's will to paper, but that he came there for that purpose, and be the consequence what they might, he would do it; again requested him to leave the room, adding that if he did not, he (witness) would; Testator caught him by the arm and entreated him not to do so, and peremptorily ordered William Gowan to quit the room, which he did; witness then took the Testator's instructions, and perfected the codicil, which was signed by three witnesses. When Mr. Webb and witness had nearly succeeded in inducing Mr. J. H. Gowan to forgive his son, Mrs. Colclough Gowan started up, and said, "FATHER, IF YOU FORGIVE TOM, I NEVER WILL!" Does not know the contents of the will.

Cross-examined by Mr. Brewster, but nothing material elicited.

Rev. Mr. WEBB, examined by Mr. Scott. Knew the Testator for 14 years, visited him in 1824, shortly before his death, as a friend and a former parishioner, he was of sound mind at the time.

HENRY GOWAN examined, lived at Enniscorthy; in 1824, testator, his uncle, went to Mount Nebo with him; Testator remained in Enniscorthy one night; Testator never said he had executed a deed; took every opportunity to benefit Testator's family; knew Burland; did not see him at Mount Nebo during the three days he remained there; Testator was in a weak state; heard Tom prosecuted Ogle for stealing a silver cup; Testator said he would make an example of his legitimate children, he meant as regarded the leaving of his property; saw many unpleasant things at Mount Nebo.

GEORGE FEARON, Esq. Attorney, examined. Knew Ogle Gowan; was employed by him to engross a deed; sent it to a scrivener; that deed was to convey from John Hunter Gowan to Ogle Gowan, the lands of Ashwood, the name of Anthony Lee was introduced as a Trustee. Ogle brought the draft to Mr. O'Meally, the Scrivener, with a stamp, can't say what he did with it.

Cross examined.—Knew of a release for Ogle from Hunter Gowan, compounding a felony; was daily at Mr. Bull's; Ogle was usually there; thinks Ogle resided there at the time.

(Depositions of O'MALLEY, the Scrivener, in the Equity suit, here read, as to his engrossing the Deed for Ogle Gowan.)

Rev. T. O. MOORE examined. Knew Testator, and is the Rector of the adjoining parish; visited him shortly before his death, believes on the 3d of May, 1824, and also ten days or a fortnight after, and lastly a day or two before his death; after the 2d Codicil was executed, about the 15th of May, witness went to see Testator in consequence of a letter he received from the deceased; told Testator he hoped he had made such an equitable distribution of his property as would prevent litigation. Opened the will on the Monday after the funeral; Wm. and Ogle Gowan were present. William Gowan seemed very angry on reading the second Codicil. William mentioned he had a RENT CHARGE of £200 or £250 on the lands of Ashwood, and requested the witness to interfere with the family to allow the £100 a year to him, as under the first Codicil, and he would give up!!! This witness was not cross-examined.

J. C. BEAUMAN, Esq. examined. Knew Testator, and met him previous to the Spring Assizes, 1824, when Testator wished him to use his influence with the Grand Jury to have the Bills against Ogle Gowan thrown out; shewed witness a release to Ogle from Testator; some time before Testator's death he said, in witness's presence, that he was in a bad state of health and was very fond of fish, and asked his son Thomas to go out and fish, and get him some trout.

Cross-examined by Mr. Moore as to the informations against Ogle for stealing the cup.

GEORGE SMITH, Esq. examined.—Knew Testator many years; went to Mount Nebo; met Ogle there; Testator requested witness to accompany him to an upper room to make search for the deed which it was said Ogle had; his Captain marched first, with a decanter in his hand; witness closed the rear; came to the room, which was fortified with a padlock; a woman was sent to reconnoitre for the key; they then entered the barricaded garrison; the Captain ordered two boxes to be opened, which were opened by Ogle, who took out a parcel like letter-paper, covered with brown paper, under which Ogle put the deed, or parchment.

Cross-examined by Counsellor Doherty.—They marched up in slow march; charged on the lock of the door for an entrance; opened two chests; saw the deed there in a brown paper parcel; (laughter) was Lieutenant in Captain Gowan's corps; searched often for arms during and after the Rebellion; went down stairs, left the deed behind, and went to search for it where he knew it was not.—(Great laughter.)

(The Court Adjourned at 8 o' Clock.)

THURSDAY, MARCH 15.—SECOND DAY.

The Court sat at 9 o'Clock, and in a few moments was crowded almost to suffocation.

JOHN BURLAND examined by Counsellor Scott—Knew the late John Hunter Gowan; lives at Loggan, four miles from the Testator's house; was Permanent Sergeant under Mr. Gowan, and quite intimate with him; knew William and Ogle Gowan; was member of an Orange Lodge with them; remembers the Sestator's death, saw Wm. and Ogle Gowan before his death at Loggan, it was on the 22d and 23d of May, and Testator died on the 25th; they came to witness to draw a will in their favour; Wm. and Ogle Gowan asked him several times before; both gave directions in writing for him to copy a will, counteracting Testator's will, drawn by Mr. Donovan; brought the copy in writing to lessen the legacies made to Testator's legitimate children to provide for themselves handsomely; the draft specified a codicil of Testator's will; copied the will on the 22d to be returned on the 23d; they returned with Wm. Moore and Wm. Lawless, and not satisfied with the draft, made alterations;—proves the draft of the will, with the alterations and interlineations in the hand writing of Ogle Gowan! who left witness a list, with the names of the legatees and amount of the several legacies to be

introduced into the new will, which was to be copied by the 24th—at one o'clock they were to come to execute it. At that hour they were to bring Wm. Moore and Wm. Lawless. Did not make a copy of the will for fear it should be perfected; they were to sign it at Loggan; they said Testator could not come, as he was confined to his bed. Witness left home on the morning of the 24th, went to Wicklow, and from thence to Roundwood; slept at Freemount on the 26th, went to Dublin on the 27th, accompanied by his brother, Benjamin Burland; called at the Hon. and Rev. Edward Wingfield's on business; knows Mr. George Perkins Bull, is witness's brother-in-law, and was in the Sheriff's Prison at the time for a libel on a Roman Catholic Priest; saw him that night; saw Ogle Gowan in Dublin on the 30th of May, in Bull's room, believes there was some bargain about to be entered into between them for the purchase of a share in "THE ANTIDOTE;" witness had a conversation with Ogle at the window, and he said witness had used him bad in not writing the will, and told him that his father was dead; Ogle asked witness to walk out with him, and he did so, and they went into Bolton-street together. Ogle told witness he had a deed in his pocket, conveying the property of Ashwood to his brother William; asked witness to go into a public house and he would show it to him, as it was a bad place to pull it out in the public street; went with him into a public house off Bolton street, and having gone up stairs Ogle produced the deed; no other person was in company with them at that time; (witness here proved the deed;) Ogle asked witness to sign it. At that time Ogle's name, Moor's name and Lawless's besides the name of the deceased, J. H. Gowan, were to the deed; witness put his name to it in that public house, at that time, and John Hunter Gowan's name was then to it. Ogle asked witness was it a good signature—was the name John H. Gowan a good "imitation"!!!

In answer to a question from the Court—"Is quite sure he used the word "imitation."—The reason he gave for asking him was, that his family never would suspect the deed to be a forgery if witness's name appeared in it, and that was the reason he came after him to Dublin, because there was a friendly intercourse between him and the family; and after witness put his name to it, Ogle put it up in his pocket: and witness accompanied him to Counsellor Benedict Hamilton's, in Manor street, to consult him as to its perfection; Ogle paid him a guinea and told witness it was his hand writing, and believed it to be so.—Court—Often saw Ogle write, and even without his telling him

so, would form a judgement that it was his hand writing—Saw both Ogle and Wm. Gowan at different times imitating their father's hand writing before the transaction of the deed in Dublin; they often signed summonses for persons to attend in their father's hand writing, and they did it very well; after they went to Mr. Hamilton they returned to Cox's hotel, Bolton street, and took a snack there; had been engaged to dine with Mr. Bull, but that prevented him; accompanied Ogle some streets on his way to the mail coach office, as he was to travel all night, to oppose the reading of the will with the deed; Ogle said all the names were put to it at the Mount, and the witnesses were all SWORN TO SUPPORT IT; parted from Ogle when he went to the coach office. Early in June returned home from Dublin, saw Wm. Gowan first, who said he was obliged to him for his signature; received the letter produced in Court, from Wm. Gowan: supposed the meaning of the words, "The link that holds us brothers can never be broken," referred to the Orange Society; went to Carnew as the latter required; William always begged witness to say it was a good deed, if any one spoke to him: asked witness to swear to the memorial to to register his deed about five months after he came down from the country, did not swear to the memorial as he would not perjure himself. Defendant did not ask him to do it after he once declined; often advised Defendant to give it up, advised the witness also, and endeavoured a good deal before he would step forward to expose them; went to Mr. Graham's of Carnew, with Wm. Gowan to register the memorial; Wm. Gowan, Joseph Swan Graham, Mr. Manifold and Mr. Hope, the Attorney, were in the parlour; Lawless came in after to swear; before witness went into the parlour Wm. Gowan asked him to swear, and when he refused he told him to make some excuse, that it was a family business. Mr. Hope asked him to make the affidavit; told him he would not, that it was a family affair, and he would have no more to do with it; the reason he refused was, because he would not perjure himself to all intents and purposes; apprised Defendant that he would tell the truth if he would not give up the deed: Defendant told witness if Mr. Hope asked him any question he was to say it was a good deed, and when requested, he would give it up as a compliment to the family, and be at peace; after it was signed and sworn to by Lawless, witness took it up by the corner and put his INITIALS to it, that he might know it again; followed Lawless into the hall leading to the kitchen, and asked him how he came to swear it; Lawless opened his hand and shewed a certificate signed

by J. H. Gowan, and he said, "That's what I swore to;" Lawless asked him did he never know that Ogle Gowan had been christened John Hunter, and he said he never did; received letters from defendant and O. Gowan; received a letter dated 10th July, 1825, from O. Gowan; the letter to Burland dated 11th July, enclosed the letter from Ogle to Wm. Gowan; saw Wm. Gowan the day before the fair, and on the fair day of Carnew, in 1825; believes it was on the 18th or 19th of November; insisted on his giving up the deed, that every person in the country was ashamed of it: he said he would give it up, and write witness a letter to shew his friends, that he would not be blamed for having a hand in it; proves the letter in Wm. Gowan's hand writing dated August 18, 1825; got it by a little boy in the fair on the 19th, shewed it to his friends. The letter was here read, thus—"My dear Sir—I have considered and re-considered the advice you gave me the last time I met you, and I cannot consent to give up a property, which you know to have been so fairly given me by my father, &c.)—Shewed it to the family of Hopkins, at Mount Nebo; received two subsequent explanatory letters from defendant, one the 26th August, no year to it, the other the 7th September, 1825; was examined in Carnew before the Commissioner; had divulged the conspiracy before to Mr. Bat. Burland and then to Mr. Bull; sent those letters by Mr. R. Hopkins, the Plaintiff, to Mr. Woodrooffe, the Attorney; proves a note to him in Ogle's hand writing, dated 14th September, 1824, hoping that witness would meet him at the Arcade at 10 o'clock, and that he would be punctual to the hour; went next day to Mr. Dowse, Attorney, Cumberland-street, to get the deed given up, Ogle went with witness, who said he would divulge the whole cause; Ogle said he came from the country for the purpose of having the deed settled, he said the family would give the £100. I said that was not the case as it was only £50: went away with him from Mr. Dowse's; Ogle wrote to him several times after, but he did not go to him; saw his brother Benjamin Burland in the Sheriff's prison with Mr. Bull.

Cross examined by Mr. Doherty—Has not been witness to many wills, the people in this case thought him a most respectable witness—What is compunction? Is it compulsion?—No: compunction is quite a different thing—that thing you know that you took out of the County, and after carrying the burthen about with you dropt it somewhere about Delgany.—Is more attached to the legitimate children than to the illegitimate. The lads that promise most are best boys. I dont

understand you. Do you practice in the Equity Court? I believe you are a simple conveyancer. What do you charge for a will? I was badly paid—I never charged any thing for drawing the will.—Aye, that's the rub. What would you charge for a good lively will? Why did you sign the will? It was to prevent the persons from doing a bad act. When you came to sign that honest fellow "JOHN BURLAND" to the deed it was to prevent any other person doing it for you. I told the family shortly after. Said you, Tom, have your eye about, for I am forging a will for your father. (A laugh.)—I told Tom to go into his father's room and remain there, that they should not have an opportunity to say in his absence that any thing was done that was not done. Simple John, what did Tom say? He said he was sure they would do some villainous thing. There was no copy made at the time he gave Tom the hint. Why was it you went on the 26th to Dublin? To prevent doing any more about it. Did you tell Tom you were going? I did not see him. I wonder then that you did not hint that the will was ready, and that he should mount two sentinels instead of one. Ogle Gowan saw witness in the Sheriff's Prison; he spoke low, the room was large; he told witness that he had used him ill, and that his father was dead; he hinted about the deed, but did not speak out. Then he did not like them to hear it? You may judge that indeed. I am not much experienced but under you I hope to come on.—Signed the deed conveying the lands of Ashwood to William, it was five months after that he told Tom. What! you gave him a hint about the will, and yet you did not tell him for months after about the deed; you are a queer fellow. When you put your name to the deed it was only for the purpose of shewing how you could write. Now Jack, have you any children? I have sons—Yes sons. It is a pity the breed should be lost. The breed is encreased—(A LAUGH.) It is a pity it should not. Who did you tell it was a bad instrument to? I told it to Mr. Bull that it never would succeed, and to others. Can your sons write? Some of them can. Signed the deed in the house in Bolton street; went direct from thence to Counsellor Hamilton's, and then to Cox's. You have attended the Courts? Never before. You gave a guinea for the law I believe. Ogle told him he would go home in the night coach; was examined in the Equity cause at Carnew. Did he ever swear any thing like this; Here Mr. Doherty read from the witness's depositions that the parties were sworn to support the deed, but that Ogle Gowan would not ask him to do so for £100. That's true. Well tell me when it is false, that

he would not make him a liar—(It would be difficult to make you a liar, Jack)—that he went after he dined at Cox's. No, that's not right. Did you dine twice that day? No. Then the person who swore that you first dined at Cox's and then went to Mr. Hamilton's, swore falsely? It is a mistake. Were you ever by at the signing of any other forged deed? I was; the deed of Ogle Gowan. Did you tell Tom of that? No, because Tom had heard it before witness, as Tom had been in Dublin, and Mr. Bull told him that Fearon had drawn such a deed. Believes it was William Gowan first told him, that the Old Captain was very angry about it; saw that the deed on the 9th of April, 1824; heard of it before that but cannot tell how long; the Captain told him, at his fish pond, that George Bull of Dublin had made an affidavit of his having conveyed the lands of Ashwood, to Ogle, the Captain was a very friendly gentleman; saw it the 9th of April with Ogle Gowan; signed his name to it. What! to that deed? Yes.—That the Captain told you? That he told me. And pop goes your name to it in the grove? In the grove. (A laugh.) On April morning? Did you say any thing about it? I said some words about it. And you swore some pretty words about it. Juror: Did you ever tell Tom you put your name to that deed in the grove? I believe I did not. It was a forgery, J. H. Gowan told him so. And told you so a month before, thou Prince of Forgers. Saw the depositions since he swore them. Some time before the 9th of April Mr. Gowan told you of the deed of conveyance, after that you met Ogle Gowan and signed it, and then you were examined in Carnew, and you swore that you knew it to be a forgery J. H. Gowan never told me so, he never saw it. And who, swore it? Is there another Jack Burland in the world? Jack I believe you may go to the grove.

Here Mr. SCOTT was about putting a question to witness respecting his charge for drawing wills, but afterwards said he would not ask him the question.

Mr. DOHERTY.—They give you up, Jack!—(a laugh.)

JOHN HUNTER BURLAND examined by Mr. DICKSON.—Is son of the last witness, knew John Hunter Gowan, was called Hunter after him, being his god-father; saw William and Ogle Gowan at his father's house, they were there several times, but recollects particularly the 23d and 24th of May; saw them with his father in the room over the parlour, William Gowan was sitting at a table on which his father was writing, this was on the 23rd; went in to get some turpentine, his brother having burned his foot; passed the table to get the turpentine

and read at the head of the paper on which his father was writing, "IN THE NAME OF GOD, AMEN, I, JOHN HUNTER GOWAN,"—asked his father how he did that, he answered it was easy done. William Gowan turned the paper down and said, it was very wrong for any one to look over another person writing. His father left home on the morning of the 24th of May, he believes for Dublin, saw at his father's on the 24th, William Gowan, Ogle Gowan, Moore and Lawless, the latter are brothers-in-law ;—Wm. Gowan asked witness was his father at home ; his father desired him not to tell any body where he was gone to. William Gowan said, Burland would never betray him. Witness said he did not know where his father was, that he was out ; William said he did not think he would be long out, as he had promised to meet him that day ; after waiting some time, Wm., Ogle, Moore and Lawless returned to Mount Nebo, and the day after witness heard of Testator's death ; was at the funeral, Defendant was there, but not Ogle.

Cross-examined by Mr. M'Kane—His father was a farmer ; was examined in Carnew, in the equity cause ; read his depositions lately. (This witness corroborated the former in many essential particulars, without the least prevarication.)

(J. C. Beauman, Esq. here applied for leave to explain a mistake he fell into on his cross-examination the preceding day—Leave given. Captain Beauman here ascended the table and said, that in answer to a question put to him on his cross-examination, he said John Hunter Gowan considered William Gowan the best of his children ; what witness meant to say was, that John Hunter Gowan said he considered William as having the best HEAD, and did not mean to speak of his moral character.)

BENJAMIN BURLAND, examined by Mr. SCOTT.—Is brother to John Burland ; recollects the period of Testator's death ; went to Dublin about the 27th or 28th May ; went by himself as far as Freemount, from that was accompanied by his brother ; John Burland, whom he met at Mr. Freeman's ; went to Bull's, at the Sheriff's Prison ; saw Ogle Gowan come in accompanied by Mrs. Bull, it was very shortly after witness went to Dublin ; Bull was confined in the Sheriff's Prison at the time for a libel on a Roman Catholic Priest ; was with Bull the day before at the Insolvent Court, when he went up to take his trial : saw Ogle Gowan and John Burland talking together privately at a window in Bull's room, and shortly after Ogle took Burland out of the room and they went away together. Witness dined with Bull that day ; John Burland was expected to

dine there also; but he did not return. Knows Moore and Lawless, saw them going towards John Burland's house on the 24th of May, in company with Wm. and O. Gowan, could see them just to it, going two by two.

Cross-examined by Mr. Moore at some length; Bull did not go to the window with Defendant and John Burland; did not hear them say any thing at that time about the deed, but believes the conversation was about signing a deed. Counsel—You were not asked that question, sir, by the Counsel at either side; you may go down.

WILLIAM WEBSTER examined.—Knew Defendant and Ogle, Hunter Gowan and Denis Furlong; heard Defendant say his father desired him to burn a deed, that he took the deed to the fire place, and instead of putting it in the fire, he let it fall in the coal-box under the fire!

Cross-examined by Mr. Brewster, but adhered to his testimony throughout.

DENIS FURLONG examined.—Recollects about the period of Testator's death, heard defendant say, after his father's death, that he had a deed of the property, but which his father desired him to burn, and that he then took it towards the fire place and pretended to burn it, but that he burned a cover, or something in place of it; defendant made use of those expressions in presence of Hunter Gowan. Knew Edwards Wilcocks, he is dead.

The Depositions of Edward Wilcocks in the equity cause were here allowed to be read; they confirmed in every particular the two former witnesses.

GEORGE PERKINS BULL, examined by Counsellor HATCHELL—Resided in Dublin in 1823, and was proprietor of the "ANTIDOTE" News-paper; Ogle Gowan had no share in the paper at that time. Knows Mr. George Fearon, an Attorney; Mr. F. came to the "Atidote" Office, No. 3, Redmond's Hill, in Dec'r 1823. He left a deed for Ogle Gowan, which witness gave him, was on terms of intimacy with Ogle at the time; Ogle asked witness to read the deed, which witness did; the substance of it was conveying the lands of Ashwood, in the County of Wexford, to Ogle Gowan, the name of Anthony Lee was introduced as a Trustee; it was on a pound stamp, which Ogle said was not sufficient, but that he could get an additional stamp on it, at the Stamp-office; he took it away, and told witness that he was returning home with it for signatures: that the late Mr. Gowan had directed him to have the deed regularly drawn; and he would sign it; proves an Affidavit of having seen this deed, made by witness before Alderman Darley, on the 7th of March,

1824, at the request of Mr. Thomas Gowan; recollects being examined in the equity cause; from the time he gave Mr. Thomas Gowan the Affidavit he had not seen it until he was examined in the equity cause; it must have been taken down in a mistake in the depositions, saying March instead of December, as it was the deed itself which witness alluded to, and not the date of the affidavit as to his having seen it. Preferred a Petition to be discharged as an Insolvent debtor, in consequence of damages being awarded against him for a libel on a Priest. Recollects Sunday, 30th of May, 1824; saw John Burland in his room that day, is witness's brother-in-law; saw Ogle Gowan and Ben. Burland in his room, also, that day. Ogle Gowan took John Burland to a large window which looked into the racket-court, they spoke in witness's hearing, but witness did not hear what passed when Ogle took Burland to the window, but heard Ogle ask Burland to go out with him, that he would not detain him, but that he had something particular to say to him; witness was unwilling that Burland should go out with Ogle Gowan: Burland was to dine with witness, but did not return to dinner. The first time witness saw Thomas Gowan, he told him of the deed and offered voluntarily to make an affidavit as to the fact, and witness requested of Mr. Gowan to mention the circumstance to his father; this was a day or two previous to the Affidavit having been made, Mr. Thos. Gowan having gone to Mount Nebo in the mean time. Saw Ogle Gowan repeatedly write his reputed father's name; saw John Hunter Gowan's hand writing, and saw Ogle write a letter in his father's name to Major Sirr, and knew it had the desired effect.

Court.—How do you know it had the desired effect?

Witness.—I saw an answer to it from Major Sirr, directed to the late John Hunter Gowan, but which Ogle received, and afterwards shewed it to me.

Examination resumed.—Knows William Moore, one of the witness's to the deed, he was in Ogle Gowan's service after his father's death.

Cross-examined by Mr. Doherty.—Was examined in the equity cause, and was sworn; generally speaking, one would like to be accurate when on one's oath? He would, generally. You think then, sir, that a person should be more correct in taking an oath, than in writing a "leading article?" Certainly. Then, sir, if you swore what took place in March, took place in Dec. would you have sworn true? It is a mistake in the depositions, evidently, as it was in allusion to the period of mak-

ing the Affidavit relative to the deed, and not to the time that the deed was first seen by witness.

(Here the depositions of Mr. Bull were read. "Saith, that in the Sheriff's prison Ogle Gowan was requesting John Burland to go out—saith that this was on or about the 30th May,—saith the said Ogle Gowan asked the said John Burland to sign his name.") Witness—I don't think that I ever said any such thing.

Counsellor Doherty—Then if the Lord Chancellor had decided upon that evidence he would have done great injustice to my client? Witness—Perhaps my Lord, it would be necessary for me to explain this seeming contradiction. Court—Yes. Witness—When I saw Ogle Gowan come into my room and endeavour to take Burland away, I told Burland that Ogle Gowan wanted him for no good purpose, that I suspected something was wrong, and requested of him not to go out with him, and that dinner was nearly ready; that if he did not give up his company and conversation he should give up mine. Burland, however, went out and returned in the evening, and in course of conversation mentioned that Ogle wanted him to do "that which might transport them all, and that when the proper time would arrive he would tell all that he knew about it." He told me afterwards that the conversation which he and Ogle had at the window, was as to the signing of the deed, and that he, Burland, did sign it.

(Here Mr. Scott read that part of witness's depositions which related to the conversation at the window, between Ogle Gowan and Burland, and contended that witness had not sworn that he HEARD that conversation, but that Burland told him afterwards of it.)

Counsellor Doherty—Did you, or did you not hear that conversation? I did not; it was spoken at a window at the opposite side of a large room, and in a low voice, I could not consequently hear it. Court—I thought so. Saw that deed, it was a deed conveying the lands of Ashwood to Ogle Gowan, or a rent charge therout. Counsellor Doherty—Hols bolus giving the land? (Here Counsellor Hatchell told witness that he need not answer that question—it was not English! (a laugh) I know I may be critically exact with you, sir. Will you swear all these depositions are wrong? I will not. Then will you swear that they are all right? No, I will not. Then what will you swear?—(with pretended warmth) That they want revising. Counsellor Doherty—I am serious, sir. Witness—I assure you sir, I was never more serious in my life.

JOHN GOWAN examined. Witness's father was Testator's nephew ; saw Ogle Gowan repeatedly write his fether's name ; he handed it to witness several times, and asked him was it not like his father's hand writing, it was a very good likeness ; could hardly tell one from the other ; saw him do this four or five years ago.

This witness was cross-examined by Counsellor M'Kane, but nothing material elicited.

Rev. HUGH WEBB examined—Often saw the late John H. Gowan write ; does not believe the signature to the deed produced in Court is his hand writing ; saw him sign above five hundred summonses.

Cross-examined by Mr. Moore—It strikes witness very strongly that the H is different. From the year 1816 to the year 1822, saw him write summonses ; heard Mr. Gowan was 87 years of age when he died ; at that age a man's writing does not generally improve !!

J. C. BEAUMAN, Esq. examined—Knew Testator ; it is not an easy matter at any time to speak to a man's hand writing, but does not believe the signature on either side to be the hand writing of the late Mr. Gowan.

Cross-examined by Mr. Doherty—This appears as if written by a young person. I think you could write a good Gowan now if you had a pen in your hand. I do think it is not his hand writing.

ROBERT OWEN, Esq. examined—Is a Magistrate ; often saw the late John Hunter Gowan writing ; his belief is, that these signatures are not in his hand writing.

Cross-examined by Mr. M'Kane—Forms his opinion from the steadiness, as he had always a tremor, and this is not like it.—His signature at all times had the character of a tremor.

WILLIAM HENRY TOWNSEND, Esq. examined—Was acquainted with the late Mr. Gowan for many years ; witness was an Attorney, and agent to the deceased for a considerable time, and was, in consequence, well acquainted with his hand writing. Had much intercourse with him ; does not believe the signature to the deed to be the hand writing of deceased.

Cross-examined by Mr. Moor—Was Mr. Gowan's Attorney, ceased to act as such a short time before his death.

EDWARD LIPSETT, Esq. examined by Mr. Dickson—Is a physician ; knew the late John Hunter Gowan for nearly thirty years ; often saw him write ; thinks these signatures are not in his hand writing.

WILLIAM FURLONG, examined by Mr. Scott—Is Clerk to

the Goring Petty Sessions some years ; knew the late Mr. Gowan, and often saw him write ; does not believe he wrote the signature to this deed.

JOHN BERNY, examined by Mr. Hatchell—Was in the habit of doing business for the late John Hunter Gowan, is well acquainted with his hand writing ; believes the name John Hunter Gowan, not to be in Testator's hand writing. Saw the deceased sign many hundred of Pension bills : witness's father keeps a shop, and took Pension bills in payment for goods.

(A number of other witnesses were in attendance on behalf of the Plaintiff, but Counsel intimated that it would be unnecessary to examine any more.)

Plaintiff's case here closed.

Defence.

MR. DOHERTY, commenced by saying he regretted that his part of the case was not disposed of by some person more intimately qualified by a competent knowledge of the circumstances of the transaction than, from the short time he was acquainted with them, he could pretend to be. Gentlemen, continued Mr. Doherty, my learned friend Mr. Scott, has, in his statement, of the case, occupied a great portion of your time, but not a moment longer, I am quite certain, than was sufficient for the due discharge of his duty to his client. Gentlemen, we who are of the profession of the law, are so much in the habit of magnifying every case that comes before us, that Juries at length become distrustful of us. If we venture to say that this is a highly interesting case—that it is an important case—that it is a most important case, why, you will say, we have heard the same thing from Counsel ever since the day we first stepped into a Jury box, and it frequently happens that you have been quite disappointed in believing us. It is indeed like the bulletins of health that we read of sometimes in the newspapers, where the sick person is stated to be getting better, and better, and better, until at length the scale of health falls, and it comes to this, that he is no more ! (laughter.) I say, however, that this is, in my opinion, the most important case in which I was ever yet engaged. The issue you have to try is, whether the deed conveying the lands of Ashwood to the defendant was the deed of the late John Hunter Gowan or not. If you find that it was not his deed, you fix a stigma on a character till now unquestioned ; if you do not, I much doubt, all who hear me must doubt, any created being

must doubt, if your verdict would give him any property at all; for I regret to say, that such is the state of the law, that many a tedious and wearisome step the child would have to take in the Courts, before he could even then recover what his parent left him. And upon what grounds would you inflict ruin and disgrace on this young man, and not on he alone, but on others also? Is it upon the uncorroborated evidence of that witness whose testimony my learned friend himself admitted should be received with caution? Is it upon the testimony of that man, of one of the greatest villains I ever saw produced in this or any other court. I confess I cannot find words to express the detestation, the horror I feel at the prevarications the falsehoods, the infamous conduct exhibited here this day by that perjured villain. Your Lordship must not judge of the moral character of this County by what you have heard the last two days, for it is far from being a fair sample of its character if you were to judge of it by the persons who have come from Mount Nebo. I was at one time at Mount Nebo myself, and I have to this hour a lively sense of the great kindness and attention I there met with from Mr. Gowan. My learned friend has truly stated that Mr. Gowan was a very active character. He was, as he stated to you, bold, active, intelligent, fond of field sports, and of the society of his neighbours. He had all the virtues of country gentlemen, and he had also many vices mingled with them. He had sixteen children. Some time after he became a widower, he took into his house a woman of bad character, and it is in consequence of this unfortunate connection that all those evils have followed.—He had sixteen children, thirteen by his wife, and three by this woman. I will admit that the conduct of the Defendant Wm. Gowan and his brother, Ogle Gowan, was, in many respects, not to be justified! I will admit that there was hypocrisy and craftiness, and what was sufficient to disgust any one of right feeling in their conduct!! but you are to consider that they were bred of that parent; that their father also was cunning and artful, for though he had some virtues, he had many and great vices. I regret that I should be obliged to speak in this way of John Hunter Gowan, who is now in his grave; but I cannot forget that he taught his children a lesson by his example, and that every one of them practised it. But compare their conduct with that of the legitimate children. William Gowan always behaved well, and did every thing to assist his father; but Thomas Gowan was a young man of strong passions, and he and the other children exerted themselves only to oppose their

father's wishes, and to render his life unhappy. The consequence was, he preferred the illegitimate children. It was a natural preference of the dutiful over the contentious and disobedient children. William Gowan exerted himself in the management of his father's affairs, he did every thing which he thought pleasing to him, and the consequence was, his father's blessing was upon him. Gentlemen, from this sprung up the feeling in the heart, which has attached itself to our common nature from the creation to the present time—"And Esau hated Jacob because of the blessing wherewith his father blessed him!" I will not, as I said before, defend the conduct of Wm. Gowan, it was in many respects bad; but, Gentlemen, he was a dutiful son, and that one virtue, in my opinion, is sufficient to cover a world of faults. Let us see what are the facts of the case. Look at Thomas Gowan, persecuting his brother against the wishes of his father and the entreaties of his friends. With respect to the silver cup mentioned to have been stolen, a witness was brought upon the table, and what was the result? Why there has not been a scintilla of evidence to shew that it was ever taken by Ogle Gowan or his brother. Tom Gowan however instituted a prosecution against Ogle Gowan, whom he charged with the offence, and upon what grounds? upon mere suspicion. His father applied to him but in vain. He procured Mr. Medlicott, Mr. Beauman, the Earl of Courtown, Mr. Webb, and others, to induce him to drop the prosecution carried on against his brother, and upon such light grounds, but in vain. What was the answer that he made to the remonstrance of the Rev. Mr. Webb? "I will go on, I will prosecute him, that I may shew to my father the rascality of his favourite child." He did proceed. His aged father hurried to throw the shield of his protection over his son. He goes to the Grand Jury, and by his exertions the bills were ignored, so that were it not for his activity on the occasion, his son would have been dragged to trial in the face of the county for a capital felony, and have been subject to an exposure to which no man, however innocent would wish himself liable. Mr. Gowan left the Assizes highly incensed at this conduct of his son Tom, and he declared he would make him an example to all undutiful children. He went from Wexford to Enniscorthy, to the house of his nephew, Henry Gowan, and from thence returned to Mount Nebo, with Henry Gowan, where Henry remained a few days. (Here Mr. Doherty alluded to some other family broils which he said took place at Mount Nebo, between, as he was pleased repeatedly to designate him, "that wicked

old man" and his family, but which we do not conceive to be our duty to allude more particularly to, especially as they are foreign to the subject of this trial, and could not be at all interesting to our readers.)

Could you wonder, (continued Mr. Doherty,) that he should have left his property from them? Some highly respectable persons, the Earl of Courtown, Mr. Beauman, and the Rev. Mr. Medlicott, exerted themselves most laudably, I have no doubt, to reconcile the differences that existed in the family : to induce Mr. Gowan to pardon his eldest son. Kindness is a great softener of angry passions, and when they remonstrated with him, Mr. Gowan began to consider whether he had not gone further than the strict justice of the case required, and he immediately extorted from Wm. Gowan a promise that he would destroy the deed. William Gowan broke that promise ! I will admit that he violated the promise made to his father relative to that deed!! and he acted most fraudulently on the occasion!!! I will take my learned friend's statement of what took place:—"He affected to destroy the deed, but he secured it! He approached the fire, he threw the envelope into the fire, but he contrived to conceal the deed, and he afterwards boasted of his dexterity in having deceived the old man!!!" He did all this, and I think he will never profit one shilling by it.

Mr. Gowan then made his will, leaving a smaller portion to Wm. Gowan than was contained in the deed, and made a provision for Thomas Gowan and the rest of his numerous family. All this was brought about by the good offices of the gentlemen I have just alluded to ; but with all my respect for Mr. Beauman, with all my respect for my Lord Courtown, and with all my reverence for all their reverences, I must say that no consideration on earth would ever have induced me, were it my case, to leave one shilling of my property to so undutiful a son. Let us now see how the case is supported by the witnesses for the prosecution. The first we shall speak of is Smith, who was a Lieutenant in the corps to which the late Captain Gowan belonged. He went to Mount Nebo, and Captain Gowan, roused to the recollection of his former military services on a small scale, put himself in marching order, and they commenced operations. One armed himself with a decanter, another with a key, and they march up stairs !—(Great laughter.)—And what did they do? Why they came down stairs again in the same state that they went up ; but I will venture to say that the decanter was not in the same state !—(continued laughter)—They were in search of the

deed which, frightened at such marching and countermarching, crept for concealment under the brown paper parcel!!—(Roars of laughter.) The witness Burland's story is that he drew up the deed at the request of the brothers William and Ogle Gowan—that he had some compunction, as my learned friend calls it, and he left his house, stopped at Freemount, went from thence to Dublin, proceeded to the Sheriff's Prison where he was met by Ogle, who taxed him with a violation of his engagement—that he went with him to a public house in Bolton-street, and there signed the deed. Much stress has been laid upon the dates. Why I will not quarrel about where he slept on the first and second and third nights, because we can bring forward the witnesses to the deed—unimpeachable witnesses, who will swear that they signed it,—that they saw the testator sign it, and Burland himself sign it, all at the same time and in the same place. And who is there that would weigh his testimony a single moment with theirs. No Jury would condemn a fly on that man's testimony. The only thing that seems clear in it is, that he met Ogle at the Sheriff's Prison, and the only wish I have respecting him is, that he had gone but one step farther, and made his final exit at a place which I am sure by his conduct he would have very much graced !!!—(Much laughter)

But we are charged with a conspiracy. I think we can retort the charge. If it was a conspiracy, let there be some grains of secrecy. If it was a fabricated document would not Ogle Gowan have used more caution? Would any man have used so little prudence as to send such an instrument to so public a place—a newspaper office? Would he not know that Bull when he would read it would speak of it? And he did speak of it. Mr. John Hunter Gowan was told of it. On the 9th of April Burland saw and signed it in the grove.—Mark the duplicity, the doublings of villainy of that sleek, sly, smooth-faced villain. He was the apparent friend of Mr. Gowan and the family. He spoke to Mr. Gowan about it, and yet in a day or two after he signs it in the grove! He prepared a will, and he flies to Dublin to avoid executing it. When Ogle produced it to him there he said why this is the instrument I already refused to sign—my conscience would not let me do so—it was to prevent my signing it I ran away from home, and why do you attempt to bring it to me again—take it away—I will never sign it. No; but he draws a chair, sits down to the table, takes up the pen, and without saying a word, pop goes the pretty name of Burland to that very deed! and now he turns round and with great complacency, asks you

to believe that he is a most respectable witness!!—(Laughter.) Mr. Doherty, after a variety of further observations upon the evidence, concluded a most splendid speech, by telling the Jury that if the Defendant's father could rise from the grave, he would blast from your presence that child who persecuted him during life, and now seeks to deprive him of character after his death.

O. R. GOWAN examined by Mr. M'KEAN.—Is an illegitimate son of the late J. H. Gowan, is a subscribing witness to the deed in question; saw the late J. H. Gowan sign it on the 15th March : Moore, Burland, Lawless, and Wm. Gowan were present; is quite positive Burland was there; saw all the witnesses sign it on that day at the same time, about 3 o'clock, after dinner; witness's father produced the deed for execution; his father was not in bed or confined by any bodily infirmities at that time, but was sitting in his bed-room near the fire at the corner of a table; his father desired them not to mention that they were there, as it might irritate part of the family; was in Dublin in December, 1823; employed Mr. Fearon, an Attorney, at that time to draw a copy of a deed; and to the best of his belief got that deed, so prepared, either from Mr. Fearon or the scrivener; early in December, Wm. Gowan mentioned to witness that his father wished to make over to him Ashwood, and to get a deed prepared, leaving blanks; went to Mr. Fearon a second time, who said there should be the name of the trustee and of the person to be benefitted in it; witness gave his own name for the person to be benefitted; does not now recollect who the second person was to be mentioned; returned to Mount Nebo about the middle of December; Tom had charged him with having stolen a silver cup from his father; was arrested in consequence of information sworn against Mr. Miller; was taken to Gorey by the Police; his father followed him; was finally liberated; his father was dissatisfied with Tom; was at the Assizes with his father; Mr. Thomas Gowan appeared there to prosecute, with a number of other witnesses; witness's father spoke to witness relative to the deed he intended to make to assign Ashwood to William; his father took ill at the Assizes, during which time he had that conversation; he was afraid he would not get home to mount Nebo to execute the deed for William; left Wexford with his father, and accompanied him as far as Enniscorthy; he stopped at Henry Gowan's he believes that night; his father sent him on to copy the deed, to have it ready with the exception of putting in the Trustees' names and his brother's name;

his father returned shortly after; witness thinks he was a day home before him; copied out the deed as directed, and the produced is it; about three or four days after the deed was executed; remembers his father's death; was at his funeral on the 28th; the will was read on the Monday after his father was hurried; between the time of his father's death and the reading of the will witness was not in Dublin; brought home the deed on a stamp; knows John Burland; never got him to witness a deed in a grove near Mount Nebo; got another deed from Mr. Fearon before the Assizes of Wexford by his father's direction; it was a deed of acquittance in consequence of the prosecution for stealing the cup.

Cross-examined by Mr. Scott—Went to Dublin in December, 1823, by Wm. Gowan's directions; gave Mr. Fearon instructions, he thinks both in writing and by word of mouth; his impression is that having got the lease he prepared something from it at the hotel* where he stopped; won't swear positively to this; got the deed granting Ashwood from from his brother William; shewed it, and thinks he gave Mr. Fearon the draft he drew himself, and the original grant of Ashwood; asked Mr. Fearon to prepare a proper draft without names; don't know whether Mr. Fearon made any alterations; if he swore that he brought him a draft ready prepared which he was to get engrossed, he believes he would swear falsely; gave to William on his return the deed given him by Mr. Fearon; paid Mr. Fearon; and he or the scrivener gave it to him, it was on a stamp; thinks witness and his father remained about two days in Wexford; from Wexford went to Henry Gowan's; swears he did not remain there two days: will not venture to swear he staid one; thinks his father came home on the evening of the morning which he came home; did not go through Gorey when returning from the Assizes on his way from Enniscorthy home; is almost certain he did not; it would have been out of his way. Does not know where the deed is, gave it to his brother William; could not say how he travelled from Enniscorthy to Mount Nebo; can't tell whether he walked or rode; but did not go in a coach; won't swear any one was in his company or not from Enniscorthy home; had sworn to the execution of this deed; all were present and signed it on the one occasion; before it was executed his father desired them to keep it private as he was making a provision for William; his father looked over it; thinks he could not have read the whole of it; cant say which side of it he was reading; he (witness's father) took it out of his desk, it had been given to him the day previous; don't know if it was

*Bell's, Lower Kevon-street.

with the same pen they all signed ; cant say there was more than one ink stand on the table ; there was generally more than one on the table ; one his father used and the other William used ; believes he got {the} paper he wrote the draft on from William ; can't tell where Wm. got {it ; } he either gave witness money or spoke of giving money to send for the stamp ; this was at Mount Nebo ; could get the stamp at any of the towns around ; can't say it was at his fathers request he witnessed the deed ; but swore it was at his request ; and it was understood he assented to it in the month of December, by giving the directions to give Mr. Fearn ; considered it to be at his request and did swear it ; the deed was prepared by Mr. Fearon in the month of March, 1824 ; gave the draft to Mr. Gowan ; never erased his name and put his brother William's name in it ; (here his depositions were read—Saith with the alteration of William's name he erased his own. Say's William procured a stamp.) Don't know whether he gave the names to him or not ; don't think he bought the stamp himself, but recollects, speaking to William about it ; knows he did not go for it himself ; has no recollection of going to Mount Nebo. (Here part of the witness's answer to the bill in Chancery was read. (Saith that this deponent bought the said stamp.) If his brother gave him the money, and that he sent another for it, he conceived it was he who brought it. Recollects about Christmas, 1823, his father came to search for a deed. Witness had it not. His brother William had it. Don't know his father ever desired his brother William to burn it. Might have said that William boasted he had not burned it. William told him so. It was not after the execution of the deed ; Defendant told witness something of the nature of destroying the deed and did not burn it : his brother told witness the reason why he kept the deed contrary to his father's wish was, that he had broken faith with him, and that breach of faith was cutting down £100 a year to £50 a year ; recollects his going two or three times to Burland's house about the period his father executed his will and codicils, which was about the 22d of May ; saw J. Smith at Loggan : went there at Burland's request, who said he was drawing a will for witness's father, making a fair disposition of his property ; Burland did not shew the will on the first occasion ; don't think William Gowan was with witness ; never recollects being at Burland's house or on his lands with William Gowan ; has no recollection of being in company with Moore and Lawless ; is quite positive he never went there, at one and the same time with the persons mentioned ; swears he did not go

there within a week of his father's death ; has no knowledge of ever meeting his brother there ; believes that writing (the copy of will) is his (witness's) ; made alterations to it he supposes at one of the intervals of his being at Burland's house ; believes it was drawn up by Burland ; he said he should submit it to witness's father if witness approved of it ; made those alterations in that draft at the request of Burland ; can't recollect he was with Burland on the 24th ; Burland frequently importuned him to look to himself ; did not go to look for Burland to get it from him ; never got it from him at all ; his father said he wished it to be concealed to prevent violence in the family ; has no reason to believe his father wished the provisions of his will to be kept secret from his legitimate children.

By the Court—Recollects his father taking the deed out of the desk, which he unlocked ; they all signed it then at the table ; his brother William took it off the table when it was signed ; understood it to be William's property—Was his father to have no property in it during his life? I can't say.

WILLIAM LAWLESS examined by Mr. M'Kane—Lived in the service of the late John Hunter Gowan ; wrote his name to that deed in his bed-room ; Ogle Gowan, William Gowan, John Burland, William Moore, witness and old Mr. Gowan, were the only persons present ; saw Burland put his name to it, and William Moore on the same occasion, and in the same place ; Testator died on the 25th of May. Ogle Gowan was at Mount Nebo on the day his father was buried. Don't recollect ever going to Burland's in company with either Moore or Defendant.

Cross-examined by Mr. DICKSON—That is his name and hand writing to the will. (Here witness was desired to write his name, and some of the Jury compared it to the will.) Don't remember the day when the will was signed by Mr. Gowan. Five persons signed it besides Mr. Gowan, Ogle Gowan, William Gowan, John Burland, William Moore and witness ; thinks Moore signed first ; it was J. H. Gowan signed first ; don't know which signed second ; is positive William Moore signed before William Gowan ; witness of course signed last ; witness is married to Moore's half sister ; it was signed in the middle of the day ; the dinner hour was generally one or two o'clock ; went into the room with William Gowan ; the Captain and John Burland were in the room ; it was after that Ogle came in ; believes it was the Captain spoke first ; when witness went in Mr. Oowan pulled the deed out of a box or desk ; is not sure which ; the Captain said he wanted him to witness the deed for him ; he said he was going to make over a property to Mr.

William; after he signed it he told them to keep it secret till after his death; believes he mentioned the townland of Ashwood; Mr. Gowan did not read the deed, he looked at it; Mr. Gowan put the seals to the deed; thinks there was no candle; the seal was he thinks wax, not wafers; Captain Gowan put the seal to the wax more than once or twice; can't tell whether he put the same seal; did not see him change the seal; was asked twice to sign it; after all had signed, Mr. Gowan gave it to Mr. William Gowan, and said he was well provided for if he died to-morrow; don't believe he attended table that day; don't know how long he was at home after the Assizes when he executed the deed; it was not the day he returned; don't know whether Ogle or he came home first; witness was at the Assizes and left Wexford first; came with the Captain as a witness for Mr. Ogle Gowan; thinks he left it on the third day; was home before his master; went through Enniscorthy; did not stop a night there; don't recollect seeing Ogle Gowan at Enniscorthy; witness walked home; don't know if Henry Gowan, of Enniscortny, went home with Mr. Gowan; saw Henry Gowan at Mount Nebo; did not know Mr. Ogle Gowan was working at the LAST; knew he was put apprentice to a shoemaker, but don't know whether he was a shoe-maker or not; whether he served his time or not; never saw Mr. George Fearon of Dublin, at Mount Nebo; thinks he never saw Mr. Joseph Swan Graham at Mount Nebo, never heard of his visits there; Graham is a shop-keeper in Carnew; and Wm. Gowan has lived there ever since his father's death; made an affidavit at Carnew; Burland was there, and asked to make his affidavit for the registry, but he refused.

WILLIAM MOORE, examined by Mr. BREWSTER—Lived in the employment of the late Captain Gowan to the time of his death; recollects his return from the Assizes; that is witness's name and hand writing to the deed; saw John Hunter Gowan subscribe his name to it; saw them all sign it at the same time; knew Burland was coming to Mount Nebo because Wm. Gowan sent witness for him; went to his place and brought him to Mount Nebo.

Cross-examined by Counsellor HATCHEL—Burland and witness did not come together. Something about one o'clock he set out for Burland. Did not tell him what he was wanted for—About two or three hours intervened. Mr. Wm. Gowan called him to witness the deed. Loggan is about two miles and a half from Mount Nebo. Never measured it; Burland rode; witness took his horse from him; there was no clock in the house, witness was a day labourer for deceased; cant tell how

long he lived at the Mount: lived there three years. To the best of his knowledge Loggan is not five miles from Mount Nebo; thinks it is not three. Does not know the hour of the day that he took Burland's horse from him; it was after the labourers dinner hour. Would you know the hour as well by the sun as by the clock? I would know the hour as well by the clock, sir, if I saw it.—Witness did not go in with Burland, but was sent for afterwards; saw Lawless in the kitchen after Wm. Gowan came for witness; they then went up to the Captain's room. Mr. Hatchell, (taking hold of witness's coat,) where did you get that coat? Witness—(turning round with evident warmth) where did I get this coat? my wife bought it for me. On your oath did not Ogle Gowan give you a coat? He did. Where is the hat? It is worn out. Witness was in the service of Ogle Gowan at the Assizes, and afterwards went to live with him in Dublin, where he gave him the hat; gave him a coat within the last six months. Lived with Ogle Gowan as a servant; was employed as a messenger for Ogle in the "Antidote" office; whatever Ogle would bid him do he would do it. Look up to the Jury. (witness turned round and looked stiffly up to the Jury.) (A laugh.) Were you ever in a corps? Never. You look to the right so well I thought you were. You worked on the road generally? Yes. You took a farm at Rathvilly some time ago, from Rev. Mr. Whitty? I did. Who went security for you? Witness, did not know of any one going security for him. By virtue of your oath, sir, did not William Gowan go security for you? Heard Mr. William Gowan wrote a recommendation to Mr. Whitty for him. Does not live at Rathvilly now. Did not tell Mr. Whitty when he was leaving it. Saw no candle when he signed the deed; it was about two o'clock; does not know whether there was candles in the room or not. Will you swear there was not three candles in it?—No, I will not. Can't say that there was three, or one, or none! The Captain signed first, the witnesses then, shortly after they entered the room it was executed, in a few minutes. Mr. Gowan took it out of his desk, and looked over it, it was not on the table when they went in. After they signed it, Mr. Gowan gave it to Mr. William Gowan. Don't recollect the candle being lit. Did not, to the best of his knowledge go to Burland's house. Never was in his house, but met him at his house. It was the week before the Captain's death. Met Burland at his house since the Captain's death. Went to pay him a visit! It was after he left Ogle Gowan's employment. On his oath he does not recollect if Testator took out his watch, but he mentioned something about a seal. Does not

recollect that testator used a candle seal and wax, to the deed; it was not out of testator's hand after he took it out of his desk until he signed it. Believes Defendant signed it same day; believes Burland signed after witness, is not certain whether before or after.

JANE COLCLOUGH examined by Mr. Moore. Is acquainted with O. R. Gowan. Recollects the funeral of J. H. Gowan.—Was in Mount Nebo. Is positive Mr. O. Gowan was at Mount Nebo on both Saturday and Sunday—the day of the funeral and the day after.

Cross-examined by Mr. Scott—Her daughter is married to Ogle Gowan.

FRANCES A. GOWAN, examined by Mr. Doherty, is the wife of Mr. Ogle Gowan. Lived at Mount Nebo at the time of Mr. J. H. Gowan's death. Recollects the funeral, it was on a Friday; Ogle Gowan attended it; went to Gorey on Saturday and passed the Sunday at Mount Nebo; saw her husband in Gorey on Saturday, a distance of three miles from the Mount. Saw him at Mount-Nebo on the Sunday following.

Cross-examined by Counsellor DICKSON.—Her mother was the last witness examined, and is half sister to Mr. Ogle Gowan; witness's husband is her half uncle! her name is F. A. Colclough, is the grand daughter of the late John Hunter Gowan, and is married to John Hunter Gowan's son!!! Was married at the time of the funeral; her grandfather knew she was Mrs. Gowan, she believes a month before his death, passed as the wife of Ogle at the time of the funeral; William Gowan knew of her marriage; her Grandfather called her Mrs. Gowan; and knew of her marriage. Her grandfather left her a legacy of £100, but called her by the name of Frances Anne Colclough in his will; went to Gorey generally of a Saturday, staid there till evening; on the Saturday in question came home in the evening; walked home; went to Dublin sometimes in the Mail Coach which goes through Gorey at 8 o'clock in the evening; did not however go on the Saturday night spoken of.

The Case having closed—

Counsel for the Plaintiff intimated that Mr. Townshend wished to be examined concerning the deed mentioned by Mr. Ogle Gowan, and which was in his (Mr. Townshend's possession,) he was accordingly re-examined by Mr. Scott.—Witness was agent for the late Mr. Gowan. Heard Ogle Gowan examined—heard him speak of a deed of the lands of Ashwood, and was surprised at hearing him. The deed was handed to witness by J. H. Gowan, for the purpose of preparing a re-assignment, and it has been in his possession ever since, as he had a LIEN on it. It never left his possession. That is

the original lease from Hatton to Gowan of the lands of Ashwood; it was handed to witness prior to 1823, to prepare a re-assignment of a mortgage, and is amongst his papers still.

Cross-examined by Mr. Doherty.—It has been said, "Once a Captain, always a Captain," so once an Attorney, always some of the profession will remain. You have been listening to this trial, and to the mention of the deed by Ogle Gowan, and you caught the point there? I did catch the point there. You are certain the deed he spoke of is in your possession? I am certain of it. Will you have the kindness to look at that? Witness, (stretching over his hand for the deed, which Mr. Doherty handed to him,)—There may be a second one.—(Great laughter.) Why I could shew you a third of them.—(Continued laughter.)—What's that? A deed of conveyance of the lands of Ashwood. I wish to convey no imputation, Mr. Townshend, but all I have to say is, that the point's lost! Good night to you.

Counsellor Dixon here stated that he would leave his case in the hands of his Lordship, and would not reply to evidence if his learned friend on the other side would agree to do the same; this being complied with—

His Lordship then charged the Jury.—He said much time would have been saved if this trial had taken a different course—if the Plaintiff had gone into it at first. He ought to have stated his case in support of the validity of the will, and then examined the witnesses, and then it would have been for the opposite side to have impeached, the credit of those witnesses; but he has taken a different course. The plaintiff, whose witnesses were to be impeached has gone into the case as a question of law, and to establish by direct testimony, by circumstantial evidence, and by inference, whether it has no existence. Gentlemen, you have an order made by the Lord Chancellor for this trial, and in that order the particular question is stated to be this—the question is whether the deed of the 15th of March, 1824, was duly executed by John Hunter Gowan or not. You have to decide that question in the affirmative or the negative. It has been truly stated to you by the Counsel for the Defendant that this brings on the only question, the question whether that deed was obtained by fraud or not. Allowing that it may be the most fraudulently prepared instrument that may be conceived, yet if you believe it was executed by his father—by the late Mr. Gowan, you are bound to find that it was duly executed, whatever its consequences may be to the other parties. It is your duty to free your minds from any imputation on the parties except it be to shake the credit of their testimony by conflicting evidence. Of the actual execution of the deed three witnesses have been examined, Moore, Lawless, and Ogle Gowan, who have bound themselves to the deed by their signatures. If you believe what they have sworn, Gentlemen, there is an end of the case: but on the other hand, if you do not believe their testimony you will find for the Plaintiff. Each of these witnesses have taken upon themselves to swear that they saw the Testator sign his name to it, and that they signed it also. If that be true you are bound, if you believe their evidences, to find an issue in the affirmative, namely that it was executed by J. H. Gowan. Yet it does not follow that what is sworn y any number of witnesses is necessarily the truth. There is no put-

ting their evidence on the plea of a mistake. They must have sworn true or false. If you believe they are honest men you are bound to believe their testimony but you are to consider whether they are of that description or parties in a foul conspiracy to set up a fabricated deed. And that leads us into a consideration of the evidence. You have heard each witness examined. It is necessary to try whether there is not a sufficient reason to believe their evidence. It is a long time since, and the execution of the deed was attended by many minute circumstances which have escaped their recollection, and which human beings cannot be considered capable of calling to their remembrance. I dare say you would feel distressed yourselves if any one was to desire you to state the particular circumstances of any deed which you may have made three or four years ago. You are to consider whether they are honest witnesses or not. From the manner it has been discussed out of doors, and repeatedly spoken of, and kept in the mind of these witnesses, but more, kept in their minds on this point alone! you are to consider whether they come with a prepared story, and therefore you are to judge what their evidence might have been if they had come unprepared with respect to this transaction. You are to see in what way that deed is impeachd. This body of evidence is met by the examination of John Burland, an attesting witness to its execution. He has sworn that it took place in Dublin. He has come forward to swear that it never was duly executed, but that it was the result of a conspiracy, and that he himself was a party to that conspiracy. If a man, having been unawares engaged in a bad transaction, and becoming an honest man, feels ashamed of what he had done, it is his duty to the parties to tell the whole truth, however he tells it to his own discredit, still it shews him to be an honest man. It certainly throws a great imputation upon him:—you will therefore see that his evidence should be supported either by direct evidence, or inference, about which there can be no mistake.—(Here his Lordship went over Burland's evidence most particularly, commenting thereon as he went along.) There was a part of this case which seemed at first inexplicable, but it is capable of explanation.—Burland on his examination said,—“I am sorry to say it, but I will give it as it is; I tell the truth. The setting up of the deed against the will, was a fraudulent transaction!” The defendant acted craftily in not giving up that deed. But then the question arises, why should he concur in his father's will disposing of this very estate of Ashwood? Why the inference is, that the deed was not duly executed! It seems very strange that he should concur in a will narrowing, that is cutting down by a codicil, the property which he alleges had been already his.

But, again, we are to look at it in another point of view.—Why when he acknowledged that he had destroyed the deed he should act as if he had destroyed it, and this accounts for what would otherwise appear unaccountable. But what would be the natural consequence of such conduct? Why that it would not stand a moment in the eyes of a Court of Justice. You will, at the same time, recollect Gentlemen, that any thing said by the Testator, in the absence of the Defendant, is not to be taken as evidence against him. Here his Lordship again read over parts of the evidence at the request of the Jury, stating, that if they desired it, he was ready to read the entire. One of the Jury replied that they did not deem it necessary for his Lordship to proceed farther with the evidence, and the Jury having immediately retired, returned in about four minutes with a verdict for the Plaintiff, thereby establishing the Will of the late John H. Gowan, and invalidating the Deed endeavoured to be set up by the Defendant and his brother, William and Ogle Gowan, illegitimate children of the Testator.

The Court did not break up till past 10 o'clock, and was crowded to excess up to the last moment. Such was the intense anxiety manifested by the multitude, that from the time the Jury retired until the verdict was announced, not even a whisper was to be heard; and when the Jury knocked at the door for re-admission to their box, the solicitude was very visible on the countenances of hundreds who were present. For our own part, we never witnessed such a scene before. Counsellors, Attorney's Witnesses, Doctor's, friends and foes, every eye was raised to the box, and a simultaneous burst of approbation arose from the assembled spectators on the announcement.

